

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF VERMONT

In re:

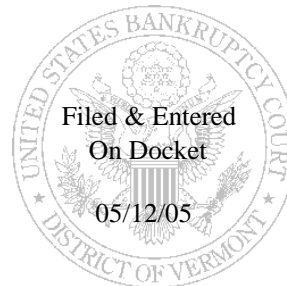
**ROME FAMILY CORPORATION**  
**Debtor.**

**Chapter 7 Case**  
**# 02-11771**

**ROME FAMILY CORPORATION,**  
**Plaintiff,**

v.

**BERNARD ROME,**  
**Defendant.**



**Adversary Proceeding**  
**# 04-1065**

**ORDER**  
**SETTING STATUS CONFERENCE , DIRECTING CONSOLIDATED SCHEDULING ORDER**  
**AND CONSOLIDATING TRIALS**

WHEREAS, on October 18, 2004, John R. Canney, III, in his capacity as chapter 7 trustee (the “Trustee”), commenced the above-referenced adversary proceeding against Bernard Rome (the “Defendant” and collectively with the Trustee, the “Parties”) seeking to avoid and recover allegedly preferential payments which involve the so-called “reserve account” (doc. # 1) (the “Preference Action”) to which the Defendant timely answered (doc. #5); and

WHEREAS, in May 2005, the Parties filed their respective pre-trial statements (docs. ## 24 and 25) in which the Defendant raises, for the first time, an ear-marking defense (doc. # 25); and

WHEREAS a separate adversary proceeding styled *Banknorth N.A. v. Bernard Rome*, A.P. # 04-1048 (the “Banknorth AP”), is currently pending in this Court;

THE COURT FINDS that the Banknorth AP involves allegations concerning the relationship between the Defendant and Banknorth which overlap and are probative of the Defendant’s asserted ear-marking defense in the Preference Action;

THE COURT FURTHER FINDS that because the Debtor and/or Banknorth are not parties to both pending adversary proceedings, proceeding with separate trials may result in the Court making findings that could potentially prejudice a party whose interests are not adequately represented;


THE COURT FURTHER FINDS that consolidation of a trial on the merits of the Banknorth AP and the Preference Action would promote judicial economy and would prevent the Court from making findings in either the Preference Action or the Banknorth AP which would prejudice a non-participating party;

Therefore, IT IS HEREBY ORDERED that:

1. The trial on the merits in the Banknorth AP and the Preference Action shall be consolidated.
2. The Parties are directed to formulate and file a proposed consolidated scheduling order.
3. A status conference in the Preference Action will take place on **May 24, 2005 at 11:30 A.M.** at the U.S. Bankruptcy Court, The Opera House, 67 Merchants Row, Rutland, Vermont concurrently with the Banknorth AP status conference.
4. The status conference currently scheduled for May 24, 2005 in both the Preference AP and the Banknorth AP shall go forward unless all parties, including Banknorth, Bernard Rome, and the Trustee, submit a stipulated proposed scheduling order for the completion of discovery, the time frame for filing dispositive motions and for a trial on the merits of the Banknorth AP and the Preference Action **by 4:00 P.M. on May 20, 2005.**
5. In the event Defendant Bernard Rome intends to amend his answer to assert an ear-marking defense in the Preference Action, he shall file any amended pleadings no later than **noon on May 17, 2005.**
6. In the event the Trustee elects to object to the Defendant Bernard Rome's asserted ear-marking defense (in either the pre-trial statement or answer) filed in the Preference Action, he shall file a written objection no later than **noon on May 18, 2005.** The Defendant shall have until **4:00 P.M. on May 19, 2005** to respond.

**SO ORDERED.**

May 12, 2005  
Rutland, Vermont

  
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Colleen A. Brown  
United States Bankruptcy Judge